



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

AUGUST 12, 2008

PRESENT: Acevedo, Koepp-Baker, Lyle, Mueller, Tanda

ABSENT: Escobar

LATE: Davenport

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Linder, and Minutes Clerk Johnson.

Chair Koepp-Baker called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Koepp-Baker opened the floor to public comment for matters not appearing on the agenda.

With no one present indicating a wish to address items not appearing on the agenda, the public hearing was closed.

CONSENT CALENDAR:

MINUTES:

JULY 22 2008

COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE JULY 22, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page 1, Public Comment Opportunity, line 6 (add):park amenities *{based on City Code as written and presented}* thinking that there....

Page 1, Public Comment Opportunity, line 11 (add): *Concluding, Mr. Oliver indicated, "As a member of the subcommittee, one could make a strong case for reimbursement,*

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or at the very east, criteria point changes.”

Page 3, paragraph 1, line 3: ...poured *and we do this before pulling permits*

Page 5, paragraph 2, line 1: other items considered *development requirements completed.*

Page 6, paragraph 3, line 1: ~~detention~~ *detention*

Page 7, paragraph 1, : ~~Kammi~~ *Kamei*

Page 7, paragraph 9, bullet 3: with [~~seen~~ *seen* immediately

Page 10, paragraph 5; line 13 (add): “No, we have had *to* go find out.....

Page 11, paragraph 1, line 1: “~~Drainage water is not draining towards the cemetery drainage,~~” *“The cemetery’s water runoff does not pass through its drainage facilities,”* he said.

Page 11, paragraph 1, line 6: by ~~taking~~ *talking*

Page 11, paragraph 5, 2nd bullet: 100- *foot*

Page 14, paragraph 6, line 3:~~exereting~~ *exacting* process...

Page 15, paragraph 6 {end of paragraph} (add): *Commissioner Mueller discussed with Mr. Dwyer the available industrial lands within the City. In response, Mr. Dwyer engaged the Commissioners in discussion, which included uses that are currently in the buildings near Caputo and Barrett.*

Page 16, paragraph 5, line 3:*and he now wishes to sell it*

Page 20, paragraph 9, line 4: City could take if ~~not~~ the agreements

THE MOTION PASSED (5-0-1-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: ACEVEDO; ABSENT: ESCOBAR.

PUBLIC HEARINGS:

**1) ELBA-08-05:
DIANA-EAH
UPDATE
REGARDING
RDA FUNDING**

A status report on the project funding and application progress for the 80-unit EAH project proposed on a 3.6-acre site located on the south side of Diana Ave., west of Butterfield Blvd. and east of the railroad tracks.

SP Linder presented the staff report, reminding that this item had previous consideration at the June 10, 2008 Planning Commission meeting when discussion centered on potential loss of allocation for FY 2008-09 due to uncertainty of the applicants to meet the development schedule. Of particular concern, she said, was the ability of the project to move forward and the applicants’ agreement to the schedule as proposed by staff. “Now, we can report that the first milestone was passed August 1, 2008 with the PD, Subdivision and Development Agreement Applications submitted to the Planning Division. While the presented application was somewhat incomplete, staff met with the applicant to further investigate some of the ‘particulars’. Now the applicant has committed to doing the things staffed asked.”

Commissioner Davenport arrived and was seated on the dais at 7:08 p.m.

SP Linder continued by noting the following changes to the original application:

- the City Council/RDA has approved funding of \$3.2 million, with the applicant actively seeking other funding
- the design of the senior housing component of the plan has 40 units, so a precise development plan is needed

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SP Linder reiterated that the applicant had met first deadline and had indicated to staff the commitment to completing the other work as outlined previously.

Commissioner Mueller, citing the noted time line, asked if the applicant can complete the Subdivision and Development agreement Application by the next deadline. SP Linder responded that the lengthy environmental process had not been anticipated and it appeared the applicant could now proceed on schedule.

Commissioner Lyle asked if scoring issues had been considered with the changing project. SP Linder said, "We're not there yet. We now have a layout that the applicant can work with. As we move forward with environmental assessment process, we will discuss scoring."

Chair Koepp-Baker opened the public hearing.

Architect Felix AuYeung, 2169 E, Francisco Blvd., Suite B, San Francisco, who serves as the project manager, addressed the Commissioners. Mr. AuYeung said, "This is a 'fairly complicated' process as it is necessary to work with multiple parties to get the project done."

Mr. AuYeung then gave the Commissioners an overview of the following:

- initial site map submitted to Planning
- general description of site
- access limited on east Dunne; addition funding being requested is for public right of way
- parking spaces will occupy roughly 1.1 acres
- pedestrian access site
- 'bulk' of the site is for 40 townhouses
- current subsidy from RDA almost adequate for senior housing
- will be able to complete timeline by October 30
- working with staff to move forward

Commissioner Mueller clarified with SP Linder that October 30 is an accurate deadline. Commissioner Mueller also determined that the applicant is clear on what is needed to have the final site plan by end of this month {August}.

With no others present to address the matter, the public hearing was closed.

SP Linder went over some of the details that had been discussed, and advised that no action was required if the Commissioners were satisfied with the progress to date. "The applicant still has a lot of work to be done and we are getting information," she said.

Responding to Commissioner Lyle's statement that he was troubled the amount of work to be in the next couple of week's and the fact that the entire process was now dead lined at October 30, SP Linder explained the entire timeline set forth for the applicant.

Commissioner Acevedo clarified that the entire issue should be returned to the Commissioners 'right around November 25'. "If we need to pull up this for more review,

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all involved will have to understand the new schedule.”

A request for a planned development zoning overlay designation on a .27 acre Light Commercial Residential site located on the east side of Monterey Rd. 50 ft. south of the Bisceglia Ave. intersection. The project consists of the construction of a 3054 sq. ft. retail building and the supportive parking.

2) ZA-08-13: MONTEREY- DINCER

Item 2 SP Linder gave the report, and providing an overview of the site which is planned for encompassing a 3054 sf retail building with 13 stalls for parking on a .27-acre site. SP Linder further advised of the planned setbacks together with a buffer. SP Linder cautioned that the rear setback might be an issue. “In order to provide the adequate parking lot, there was need to move the building 12-ft forward and reduce the 10-ft landscape buffer on the east side to 6-ft,” she said.

SP Linder advised that the findings required for the PUD process to facilitate access provide for relaxing the standards in order to obtain a better project (staff report/case analysis, page 2). SP Linder continued by addressing:

- size of site (very small)
- one condition will be the recordation of a shared drive aisle onto Monterey road once the other exit point is clarified, then facilities can be developed on the corner
- landscape reduction and setbacks
- to the north of the site, a zoning change {Pinn Brothers property} was approved for a 3-ft setback
- design plan not out of character; looking at recently approved projects, generally ‘fits’ City profile
- site layout of this facility ‘works well’ other surrounding development.

The Commissioners discussed:

- set-backs on adjacent properties, e.g., pizza business
- problem: this building will set 4-ft above the sidewalk (flood plain building placement requirements) [SP Linder explained building height requirements]
- zoning: light commercial residential
- north setback: zero lot-line setback with improvements
- other development uses may evolve; can use at this site be expected to be long term?
- commercial development along Monterey may be best
- applicant provides for 10-ft landscape buffer, and a driveway separation
- site plan appears to illustrate shared {future} access will split property in two [SP Linder explained the need to look at the joint access as ‘laying groundwork for improved access to the corner piece thereby setting the stage for future development’]

SP Linder illustrated the parking lot curb cut, with parking similar to what is currently proposed, and having a commercial building on the corner would be too close for proper access to Monterey Road.

Commissioner Mueller referenced the location of the trash enclosure, asking: “What will be the effect on the existing Taqueria?” SP Linder explained that redevelopment would tie this facility with the pizza restaurant as grade differences are considered.

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Chair Koepp-Baker opened, and then closed, the public hearing as no one in attendance indicated a wish to speak to the matter.

Commissioner Mueller expressed concern about the 'short setback', and said he would like to have it placed back further without meddling with the side of the building. "I'm concerned about the elevation of the street," he said. "The building will be setting up 4 – 5-feet and if it were back even couple of feet, the concern with the elevation of the street is still there. It probably is not practical to push it back too far. I imagine probably three tenants will be in the building."

Chair Koepp-Baker asked what design features would 'soften the look between one building and the next'? SP Linder said there would be a 3 – 4-foot landscaped area (projecting out) at the front windows (floor level). "If those {landscaped areas} were back further, parking would be impacted," she said. The adjacent building will be behind the drive aisle along the parking lot, not abutting it." SP Linder emphasized that the front elevation of the building - as seen from Monterey Road and from an esthetic point-of-view – will not seem out of place.

Commissioner Mueller said placement of the landscaping might cause the windows to 'be blanked over'. He asked, "Should the windows be opaque if the use is retail?" SP Linder reminded that as part of zoning, window use could be controlled.

Commissioner Lyle asked, "If there was a need or desire to connect the drive aisle south by moving the trash enclosure, how feasible would that be?" SP Linder responded, "If we move it now, that would be a hardship."

Discussion ensued regarding the feasibility to move the trash enclosure at a later date, coupled with the importance of having an easement to the south.

Commissioner Mueller advocated moving the building back 1.5-ft.

Commissioner Acevedo determined the plan has not been seen by the ARB. Commissioner Acevedo said, "I don't have any major concerns at this time; however that seems to be what ARB does." SP Linder advised, "ARB is not able to make changes as far as actual architecture design. If adjustments are made to the site plan, the Planning Commission has to do those."

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN, APPROVING THE PRECISE DEVELOPMENT PLAN FOR A .27 ACRE PARCEL LOCATED ON THE EAST SIDE OF MONTEREY RD. 50 FT. SOUTH OF THE BISCEGLIA INTERSECTION, WITH MODIFICATION TO:

Section 5 (PROVIDING FOR A REAR SETBACK OF 5-FT AND HAVING THE

BUILDING MOVED BACK 1.5-FT);

AND ADDING

Section 8: ADDING TO THE SOUTH A 'CROSS EASEMENT ACCESS FOR FUTURE POTENTIAL USE'.

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THE MOTION DIED FOR LACK OF A SECOND.

Commissioner Davenport said his preference would be to have buildings match. "I don't have a problem with what is there. I'm more interested in showing how pedestrian access could be made easier," Commissioner Davenport remarked.

Commissioner Mueller interjected, "This building will set a standard for future development and use. If the building is left to the front, it will set that standard forever." Commissioner Mueller went on to discuss the potential for changing the landscaping.

Commissioner Davenport suggested if this closer was to downtown, those issues might make a difference.

Commissioner Lyle remarked, "I don't suppose there is a lot of difference, but I wonder if 3-ft is enough for landscaping?" SP Linder explained the intent to place shrubs at strategic points for the landscaping. Commissioner Lyle declared he did not feel strongly one way or the other on the matter.

Commissioner Acevedo stated, "Nearby businesses are not likely to change. Other than the vacant location, I think this current building use will continue."

Commissioner Tanda said he did not have strong feelings about the matter, but could accept either design. He did ask, "Why did these dimensions come up this way versus more of balance?" SP Linder explained the plans by the designer of taking area from the south, coupled with knowledge of the set-backs on the Pinn Brothers property. "The applicant is trying to strike a balance," she said.

Noting the attendance of architect Jeff King, who was present to represent the applicant, Chair Koepp-Baker reopened the public hearing.

Mr. King reiterated the consideration of uses on properties to the south and north. Mr. King acknowledged this would be a tall building for one story, and then spoke on 'consistency design at the street level, and giving a 'proportions overview' of the Pinn Brothers property. "We are trying to design this building as a stand alone. It may be there for years but will be fully expandable to both the north and south. Our design considers that as well as the potential for having parking to the rear."

It was determined during discussion with Mr. King that the Planning Commission agreed by consensus to a three-foot front setback, with the Commissioners having noted that several differing sizes of setbacks had been considered.

The public hearing was closed.

Commissioner Lyle asks for review of motion. *Commissioner Mueller reiterated the resolution, explaining the proposed modification to section 5 and the addition of section 8, explaining the requested cross easement to the south as well as the north and leaving the trash enclosure as exists. Commissioner Mueller then offered a substitute motion:*

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF

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THE FINDINGS AND CONDITIONS THEREIN, APPROVING THE PRECISE DEVELOPMENT PLAN FOR A .27 ACRE PARCEL LOCATED ON THE EAST SIDE OF MONTEREY RD., 50 FT. SOUTH OF THE BISCEGLIA INTERSECTION.

Commissioner Acevedo asked clarification on when it could be anticipated that a request for easement on the other property might be forthcoming? SP Linder explained that when a future applicant comes forward, the City would ask at that time to have the easement to benefit this property as well as providing a cross access easement. She further detailed that when the property to the north begins viable development, the City will ask to connect the drive aisles.

COMMISSIONER LYLE PROVIDED THE SECOND TO THE MOTION.

THE MOTION PASSED (~~3-2-0-1~~) (4-2-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, LYLE, TANDA; NOES: KOEPP-BAKER (who indicated a wish to have the site more clearly defined for future development, MUELLER (who said it would be beneficial to have the building moved back); ABSTAIN: NONE; ABSENT: ESCOBAR.

Commissioner Tanda was provided explanation of how Commissioner Mueller could make, then vote against, a motion.

**3) UP-08-09:
MONTEREY-
CONGREGATION
EMETH**

A request for approval of a conditional use permit for a proposed synagogue at an existing 6,200 sq. ft. building located at 17835 Monterey Rd. The proposed site is zoned Light Commercial Residential District (CL-R).

Disclosure: Commissioners Koepp-Baker and Mueller acknowledge visits to the site.

PM Rowe gave the staff report, advising this building had originally been designed as a church, and then about 30 - 40 years ago, it was changed to commercial and other uses. PM Rowe gave an overview of the proposed use, together with a Condition of Approval, which will result in the reconfiguration of parking spaces; he also noted that the applicant has had discussion with Shadow Mountain School (located across the street) for additional parking. PM Rowe noted that the applicant has no plans to alter the exterior of the building, but has indicated interior modifications to meet the needs of the synagogue.

Discussion ensued regarding staff's recommendation as to the need for

- expanded hours (based on knowledge of past similar applications) of operation
- potential use of the facility for ancillary purposes, e.g., , meetings, childcare
- parking availability
- landscaping
- offsite improvements not required ~~ replaced with emergency evacuation plan
- possible concerns about lighting in back parking lot
- consideration of 1-way ingress/egress parking
- if slanted parking on both sides, reduces risks
- two drive aisles: consideration of use alleyway for exit [PM Rowe explained known concerns from residents in area regarding increased traffic; also, City has title and doesn't want the alley used as ingress/egress coupled with concerns of the location and emergency gate]

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Regarding traffic movement issues, PM Rowe said, "From a circulation standpoint, putting additional traffic onto the residential street is objectionable to the neighborhood. There would not be a good reason to have the public go through the Church parking lot."

As to the parking concerns, PM Rowe stressed that daytime parking use was of potential concern and said that staff would be monitoring the matter for having a parking management plan put into place as necessary after six months of consecutive use.

Commissioner Mueller agreed, saying, "We will look at the parking and if there are problems, we need to deal with that in the future." PM Rowe stated again that the current parking lot configuration would be changed before occupancy occurs to ensure public health and safety, and compliance with the original approved parking configuration.

Commissioner Lyle, noting the former building use as a restaurant, asked about public health inspections. Those, PM Rowe, said would be completed by the City and the County Environmental Health Department.

Chair Koepp-Baker opened the public hearing.

Congregation President Michael Oshan, 8460 Pharner Rd., Gilroy said the leaders of the assemblage were in agreement with the Conditions of approval. Mr. Oshan offered explanation of;

- daytime hours very minimal usage not looking at assembly
- two times per year High Holy Days are observed, which might mean additional/varied parking use
- lightening at the rear of the building was being installed in the trees will be operational during services
- other (safety) lighting to be installed for functioning dusk to dawn

Chair Koepp-Baker asked questions of participant comfort level with ingress/egress and parking across street. She also remarked that any landscaping would be a big improvement.

Commissioner Mueller asked about childcare provision for the facility. Mr. Oshan said there was not a school planned, just a religious school for members' families on Wednesday nights. Commissioner Mueller also asked if the congregation would have concern with the possible requirement of a parking management plan. [No]

Commissioner Lyle noted the parking use discussions with Shadow Mountain and asked there might be conflict with parking on High Holy Days? Mr. Oshan discussed the differences in calendars and announced, "We don't anticipate clashes. If it turns out there is a conflict, we are prepared to make other arrangements, such as a shuttle, etc." He went on to say, "With the nature of our programs, car pooling generally happens as entire families travel to services and events together. Generally, our Congregants are residents of area."

Discussion continued regarding:

- if parking conflicts surface, Congregation leaders will make other arrangements
- a parking management review will reflect potential problems

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- safely crossing locations for pedestrians

Commissioner Mueller asked about projected growth for the Congregation. Mr. Oshan responded, "We, of course, are hoping for growth; but it would be hard to say 'how much or how fast'. This Congregation has been in existence over 31 years and now has 50 families. We do not look for members outside immediate community and we do not prophesize."

Randy Toch, 30 Keyston Ave., told the Commissioners he is a local Attorney, a parent and a member of the Congregation. Mr. Toch addressed matters of parking and gave an overview of solution to some the concerns raised by the Commissioners.

Mr. Toch then turned to a Condition of approval: having ARB approval before the granting of a Certificate of Occupancy. "We are requesting to obtain ARB approval within 180 days after issuance of the Use Permit. Right now we have no plans to make changes, we do intent to do landscaping, and we want to use the building."

Commissioner Lyle determined that the Congregation has concern - not of the cost - but the delay for building use - of going to ARB. Mr. Toch said the Congregation members working on the Use Permit had not been aware of the ARB requirement until recently and were concerned that the use of the building was being held up because of that requirement. He asked again that the Congregation be permitted use of the building and that the ARB approval be obtained within 180 days after issuance of the Use Permit.

Commissioner Mueller asked when the building was ready for use. Elizabeth Mandel, 3450 Oak Lane, informed that all inspections had been completed and a final inspection was anticipated for 'tomorrow'. Commissioner Mueller then determined that Staff was O.K. with the requested 180 days within issuance of the Use Permit for having the matter addressed by the ARB.

Barry Freund, 17460 Montoya Circle, Congregation Treasurer alleviated concerns of parking and an increased traffic pattern by advising that High Holidays never fall on Sunday.

Joyce Maskill, a member of the Congregation and Morgan Hill employee, stressed to the Commissioners, "I'm happy to have the Congregation here," as she told of moving to the area from Southern California. Ms. Maskill invited all present to attendance at the Synagogue.

Gary Carter, 15990 LaPrenda Ct., told the Commissioners he is the Business Manager for Shadow Mountain. Mr. Carter spoke of the intention to coordinate calendars with the Church leaders as well as the Historical Society for visitor parking to Morgan Hill House.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Tanda asked questions regarding 'timing' saying this way the first time he recalled a CUP being requested just before a final inspection was completed. PM Rowe advised staff had not been made aware of the Congregation was on the verge of opening

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the building for use. Commissioner Mueller asked how the interior renovations had been accomplished without a CUP. PM Rowe responded the matter would be reviewed.

The public hearing was reopened as Ms. Mandel approached the podium to say changes were not being made to the building and the participants obtained over the counter permits. Mr. Toch stressed the building was not in use while permits were obtained. The modifications were indeed minor he said. Chair Koepp-Baker commented that the bathrooms were nicely done.

The public hearing was closed.

Commissioner Tanda asked if this was a building within the historical district and that would be of concern with a renovation. PM Rowe said this building had been addressed as part of the recent survey. SP Linder advised it was not a 'designated structure' and further stated that no exterior alterations were being considered at this time.

Commissioner Mueller observed that the building was old enough to be considered historical while emphasizing no exterior changes was planned. Commissioner Tanda asked, "How does the City treat similar facilities? How are other places of worship treated?" Commissioner Mueller reminded there is no involvement of ancillary uses here.

Further discussion of the parking and traffic pattern issues was had.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED WITHIN, APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR A SYNAGOGUE TO LOCATE IN AN EXISTING 6,200 SQ. FT. BUILDING AT 17835 MONTEREY RD. IN A LIGHT COMMERCIAL RESIDENTIAL DISTRICT, MODIFYING

Section C to permit hours of operation from 7:00 am to midnight and allow ancillary uses to religious use (with the provision that there will be no public child care except during religious services)

and Section F: the applicant must complete all site requirements of ARB within 180 days of issuance of the conditional use permit

in addition, adding Section I: the City reserves the right to put into place – following administrative review - a formal parking management plan if the currently announced arrangements with now with Shadow Mountain and other nearby facilities.

COMMISSIONER LYLE SECONDED THE MOTION.

Commissioner Tanda noted that the distributed letter from the Congregation had requested hours of operation to be 6:30 a.m., not 7:00 as stated in the motion.

COMMISSIONERS MUELLER/LYLE AMENDED THE MOTION TO STATE THAT THE HOURS OF OPERATION WOULD BEGIN AT 6:30 A.M.

Commissioner Tanda referenced the staff report, asking about the 'angled parking'. PM Rowe explained any angle parking would be removed and that the requirement would be to have the parking lot 'striped according to the approved plan' that would put parking

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back to City Code. Commissioner Tanda inquired as to the reference in the documents distributed at this meeting regarding removal of the public works impact fee. PM Rowe advised the fee schedule had been removed from the revised Resolution as all offsite improvements had been previously completed.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

4) ZA-08-17: CITY OF MH- SENIOR HOUSING DEFINITIONS

A request for approval of proposed zoning definitions and amendment to existing definitions found within Chapter 18.04 Zoning Definitions. Also requested are amendments to Chapters 18.14, 18.16, 18.17, 18.19, 18.20, 18.22, 18.24 & 18.25 inserting large and small congregate care, nursing homes and congregate care for the elderly as either a permitted or a conditional use.

SP Linder presented the staff report, noting this was the version of the same definitions, which had been reviewed by the City Council, and giving an overview of the Council's action on the matter. "Now, we have before you the amended exhibits A and B this evening," SP Linder said as she went on to identify all changes within the document, while emphasizing the changes had been made for 'consistency sake'.

Commissioner Mueller called attention to a letter from Berg and Berg, which suggested that the rules were being changed. SP Linder explained, "There have been no rules and we have not changed the definitions – the definitions are simply being added to the Municipal Code." Commissioner Mueller reiterated, "The City is not changing rules, just adding definitions."

Commissioner Tanda clarified that the definition of a half kitchen or less was contained in Section 18.04.238. SP Linder advised, "We are completing implementation of our prior discussions regarding this item."

Chair Koepp-Baker opened, and then closed, the public hearing as no one in attendance indicated a wish to speak to the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUDING THE FINDINGS AND CONDITIONS THEREIN, RECOMMENDING AMENDMENT TO CHAPTERS 18.04 ZONING DEFINITIONS AND CHAPTERS 18.14, 18.16, 18.17, 18.19, 18.20, 18.22, 18.24, & 18.25 OF MORGAN HILL MUNICIPAL CODE INSERTING LARGE AND SMALL CONGREGATE CARE, NURSING HOMES AND CONGREGATE CARE FOR THE ELDERLY AS EITHER A PERMITTED OR A CONDITIONAL USE, AND INCLUSIVE OF THE NEWLY DISTRIBUTED EXHIBITS ATTACHED TO THE STAFF REPORT. COMMISSIONER DAVENPORT PROVIDED THE SECOND, WHICH PASSED (6 - 1) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

5) STATUS REPORT ON UNSIGNED RESIDENTIAL

A review of all residential projects requiring a Development Agreement and status report on those projects that have City Council approved agreements, not fully executed (recorded) and projects with Development Agreement applications in process or

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DEVELOPMENT applications not yet filed.
AGREEMENTS

PM Rowe gave the staff report and noting this item had been agendaized at the request by the Commission following presentation of the second quarterly. Commissioners concerns, he said, were outlined by the City Council approved agreements, not fully executed (recorded) and projects with Development Agreement applications in process or applications not yet filed. "The purpose of a Development agreement, he said, is to ensure that the commitments that the developer included on the proposed plans and other documentation for the RDCS competition are implemented appropriately throughout the completion of the project," PM Rowe advised, as he presented Development Agreement Status Exhibit, then identified the issues of each of the presented sections. Concluding, PM Rowe advised this item contained information for a status report only and no action was agendaized.

Commissioners asked questions of specific Development Agreements, with PM Rowe responding to each.

Commissioner Mueller addressed: What will happen as major changes once the Downtown Specific Plan is in place.

Commissioner Lyle said he was troubled that there are allotments being given 2.5 years out, but the agreement are not finalized. "I would like to have procedures in place that cement developers' commitments," he said. "At what point when there are no development agreement in place will there be a penalty?" he asked. "There needs to be encouragement for developments to move forward rather than set on their allotments."

Commissioner Mueller stated, "Without the development agreement new applications are not eligible as stated in the scoring criteria." Commissioner Lyle replied, "There is still room for tightening up," and proceeded to give various examples. "I think if a developer is behind schedule, they should not be in line for more allocations."

Discussion evolved to encompass:

- exemption ballot measure
- downtown area requirements
- exemption period
- 500 limit for allocations with implementation of policies and procedures

Commission Lyle returned to concerns 'with a list where so many development agreements are not going forward and the Commission rarely turns down extension requests'. "There appears to be no motivation as there are not penalties for developers," he said.

Other Commissioners cited:

- there are hard dates for filing zoning applications
- a standard template is in place
- the Commissioners' 'Excellent point' can be down graded

Commissioner Lyle continued by citing projects that are now being pushed to 2010-11 with extensions and stating the thought that developers will be asking for more allocations through the automatic process. "It's just so wrong for developers to take allotments and

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two years later not have development agreements fully executed,” he said.

PM Rowe assured that the City is looking to the future with need for changes to the development agreements. Commissioner Mueller spoke to the Development Community and the need for that group to understand the new rules. PM Rowe advised letters would be sent to all. Commissioner Mueller said communication is especially crucial if the 500 exemption is approved by ballot.

Along the lines of working with developers for change, Commissioner Mueller called attention to the need for having on a future agenda Mr. Oliver’s comments last the meeting regarding *developer’s reimbursements*. “In conjunction with Title 17, we may need changes to the Subdivision Ordinance,” he said.

SP Linder advised the changes could be expected ‘within a month or two’.

Commissioner Mueller said his concern was a having a clearer understanding for all of the policy. Commissioner Lyle said it appears the City Code must be changed. SP Linder spoke to the process of dealing with the issue.

Chair Koepp-Baker stressed the need to address the reimbursement matter timely.

Commissioner Mueller agreed, saying, “The other part of the question is: if there is no reimbursement, the point structure may not be right. There may be money owed to some of the development community. And most of all, there is need for transparency.”

ANNOUNCEMENTS: PM Rowe reported that at the August 6, 2008 City Council meeting the Planning staff presented a report on the RDCS November ballot measure, including information on questions concerning issues raised regarding: What will be the specific plan for the Downtown. Staff was directed to have the matter to the Planning Commission for screening the Master Plan and to have the Traffic Plan considered. There is a time line for comments back to the consultants, PM Rowe said. The City is trying to target having the work completed before October 15 – and now it doesn’t seem that is enough time even with the draft out for comment. PM Rowe advised the Plans would be retuned for Commission consideration when the environmental work is completed.

Commissioner Mueller suggested having a workshop on the Traffic Study. PM Rowe advised of Community Development Director (CDD) Molloy Previsich’s intent to bring the traffic model separately from other studies.

PM Rowe concluded the announcements as he told of the process and number of allocations inclusive in the new downtown competition.

All Commissioners present – with Escobar absent - unanimously reminded of the cancellation of the next regularly scheduled meeting.

ADJOURNMENT: Having determined that there was no further business for the Planning Commission at this meeting, Chair Koepp-Baker adjourned the meeting at 9:25 pm.

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MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk